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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,843	01/19/2001	John J. Emerick JR.	7440/4	9252

7590 11/21/2003

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EXAMINER
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JACKSON, JAKIEDA R

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/765,843

Applicant(s)

EMERICK, JOHN J.

Examiner

Jakieda R Jackson

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 5,9,12-13 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05/02/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s): \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s): \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. **Claims 5, 9, 10-13 and 15** are objected to because of the following informalities:
  - In regards to claim **5, 9, 12-13 and 15**, all statements comprising "one of" have a list of the items and directly before the last listing should be the word --or--, not the word "and". For example, the word "and", page 13, line 3 should be --or--.
  - In regards to **claim 10**, separating the memory from the physical alarm clock is not mentioned in the specification.
  - In regards to **claim 11**, the term "buffering memory" is not provided or mentioned in the specification.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-5, 14 and 17** are rejected under 35 U.S.C. 102(b) as being anticipated by Van Ryzin (U.S Patent No. 5,991,240).

Regarding **claim 1**, Van Ryzin discloses an alarm clock with automatic time/date setting, hereinafter referenced as an alarm clock. Van Ryzin's alarm clock is in communication with an external source (television broadcast station; column 1, lines 6-9) of at least one audio data file (sound circuit; figure, element 22), the alarm clock (10) comprising:

- a digital signal processor (figure, element 14) for receiving a data signal from the external source and for decoding the received data signal to obtain the audio data file (column 1, lines 49-53 and column 2, lines 51-56);

- a memory (figure, element 20) for storing the audio data file (column 1, line 66 "a sound circuit for storing musical tunes", element 22);

- a programmable controller (figure, element 16) for coordinating the transfer of the audio data file from the digital signal processor to the memory, and for activating an alarm sound coded in the audio data file when the programmable controller determines that the alarm sound is required to fulfill the programming instructions of the programmable controller (column 1, line 67 – column 2, line 4; column 2, lines 23-29; column 3, lines 23-25); and

- a speaker (inherent to the device because it generates sound corresponding to the amplified signal) for playing the alarm sound (column 3, lines 30-33).

Regarding **claim 2**, Van Ryzin discloses a display (figure, element 18) for displaying information received from the programmable controller regarding the programming instructions (column 2, lines 28-29 and 54-56).

Regarding **claim 3**, Van Ryzin discloses an alarm clock comprising at least one manual input control (holiday/weekend key) that is used to provide an input of information to the programmable controller to supplement the programming instructions of the programmable controller (column 3, lines 9-14).

Regarding **claim 4**, Van Ryzin discloses an audio playback device (sound circuit; figure, element 22) wherein the device can be accessed by the programmable controller as an alternate source of an audio data file for use in the programmable controller fulfilling the programming instructions (column 3, lines 30-43).

Regarding **claim 5**, Van Ryzin discloses an alarm clock wherein the audio playback device is at least one of a cassette tape player, a CD-ROM player, a radio (column 1, lines 10-15), a computer disk drive, a video cassette player, or a video digital drive.

Regarding **claim 14**, Van Ryzin discloses an alarm clock wherein the digital signal processor (figure, element 14) decodes the received signal to obtain a set of transmitted programming instructions that are used to supplement the programming instructions of the programmable controller (column 1, lines 49-53 and column 2, lines 51-56).

Regarding **claim 17**, Van Ryzin discloses that the time and date on the alarm clock is synchronized with the time and date on the external data source (column 1, lines 6-9 and column 2, lines 30-32).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 6-13 and 15-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin in view of Herold (U.S. Patent No. 5,832,067).

Regarding **claim 6**, Van Ryzin discloses an alarm clock but lacks disclosing that the alarm clock comprises a video display, a memory for storing a video data file and a programmable controller for displaying the video image. Herold discloses an alarm clock further comprising:

a video display (figure 5, element 274; column 6, lines 18-19)

a memory for storing a video data file (figure 5, element 272; column 6, lines 1-5); and

a programmable controller (microprocessor; figure 5, element 254) for displaying the encoded video image on the display when the programmable controller determines that the display of the video image is required to fulfill the programming instructions (column 6, lines 5-14).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Van Ryzin's invention such that is disclosed a video display, a memory for storing a video data file and a programmable controller for

displaying the video image in order to be able to read text or other data downloaded once awakened.

Regarding **claim 7**, Van Ryzin discloses an alarm clock further comprising:

a means of connection to an external source of at least one video data file ("a tuner for receiving broadcast video signal");

a programmable controller (figure, element 16) for coordinating the transfer of the video data file from the digital signal processor to the memory (column 3, lines 22-29) but lacks disclosing a digital signal processor for receiving a data signal from the external source and for decoding the received data signal to obtain the video data file. Herold discloses a digital signal processor (sensing circuit; figures 1 and 5; element 52 and 252; column 4, lines 1-3 with column 6, lines 14-17) for receiving a data signal from the external source and for decoding the received data to obtain the video data file (column 6, lines 18-27).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Van Ryzin's invention such that it disclosed a digital signal processor for receiving a data signal from the external source and for decoding the received data signal to obtain the video data file in order to be able to read text or other data downloaded once awakened.

Regarding **claim 8**, Van Ryzin discloses an alarm clock but lacks disclosing that the memory can be used to store at least two data files. Herold discloses that the memory can be used to store two data files that are one of audio and video (column 2, lines 5-19 "remote server stores a plurality of stored messages").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Van Ryzin's invention such that it discloses memory that can be used to store audio and video data files to play sound related to the text that may be displayed in order to allow the flexibility to preselect messages to be played at a preselected time.

Regarding **claim 9**, Van Ryzin discloses an alarm clock but lacks that the alarm clock is connected to an external source of at least one audio data file by a digital signal processor receiving signals from a connection. Herold discloses an alarm clock wherein the alarm clock is connected to the external source of at least one audio data file by a digital signal processor receiving signals from at least one of an internet connection, a local computer network connection (server; figure 1, element 24; column 3, lines 8-14), an independent data drive, an independent audio playback device, or an independent computer. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Van Ryzin's invention such that it is connected to an external source to allow flexibility and customization to the system for the user to download files and adjust settings in different ways.

Regarding **claim 10**, Van Ryzin discloses an alarm clock but lacks that the memory is separate from the physical alarm clock. Herold discloses an alarm clock wherein the memory for storing the audio data file (figure 5, element 272) is located separate from the physical alarm clock unit (figure 5, element 250) and is accessed by the alarm clock by a data connection (figure 5).



Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Van Ryzin's invention such that the memory is separate from the physical alarm clock to allow more storage for storing audio data file and other pertinent information needed to download programming instructions, sound files etc.

Regarding **claim 11**, Van Ryzin discloses an alarm clock but lacks that the memory performs as buffering memory. Herold discloses an alarm clock wherein the memory performs as a buffering memory (RAM; figure 5, element 272; column 6, lines 1-5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Van Ryzin's invention such that the memory performs as buffering memory to store electronic circuitry to serve the purpose of flow control.

Regarding **claim 12**, Van Ryzin discloses an alarm clock but lacks that the alarm clock is connected to an external source. Herold discloses an alarm clock wherein the data connection connects the alarm clock to at least one of an external computer, an external data storage device, an external computer drive unit, a computer server that is part of a local computer network (server; figure 1, element 24; column 3, lines 8-14), or a computer server that is part of the world wide web internet. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herold's invention such that it is connected to an external source to allow

flexibility and customization to the system, which allows the user to download files and adjust settings in different ways.

Regarding **claim 13**, Van Ryzin discloses an alarm clock but lacks that is connected by a direct or wireless connection. Herold discloses an alarm clock wherein the speaker for playing the alarm sound is connected to the alarm clock by one of a direct, wired connection to a speaker (figure 2), a wireless radio connection to a speaker, a wireless infrared connection to a speaker, or a means of transmitting data to a speaker that includes transmitting data in a wireless manner.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Van Ryzin's alarm clock such that the speaker for playing the alarm sound is connected to the alarm clock by one of a direct, wired connection to a speaker to allow a wire to be dedicated to a particular system and to be directly transmitted from the audio source to the speaker, in order to avoid signal errors due to noise.

Regarding **claim 15**, Van Ryzin discloses an alarm clock but lacks that the alarm clock received signals is from an external source. Van Ryzin discloses an alarm clock wherein the received signal is received from one of an internet connection, a local computer network connection (server; figure 1, element 24; column 3, lines 8-14), an independent data drive, an independent audio playback device, or an independent computer.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Van Ryzin's invention such that the received

signal is from external source to allow flexibility and customization to the system, which allows the user to download files and adjust settings in different ways.

Regarding **claim 16**, Van Ryzin discloses an alarm clock but lacks the programmable controller sending data to the digital signal processor and the digital signal processor transmitting a signal to an external receiving device. Herold discloses an alarm clock wherein the programmable controller (figure 1, element 54) sends a data signal to the digital signal processor (mode select interface; figure 1, element 62), and the digital signal processor transmits a signal to an external receiving device (server; column 4, lines 11-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Van Ryzin's invention such that the programmable controller sends data to the digital signal processor and the digital signal processor transmits a signal to an external receiving device to allow a user to preselected messages to be played at a preselected time.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,615,380 to Hyatt discloses an integrated circuit computer system having a keyboard input and a sound output

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jakieda R Jackson whose telephone number is

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703.305.5593. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Talivaldis I. Smits can be reached on 703. 306-3011. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9314 for regular communications and 703.872.9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.4700.

JRJ  
November 17, 2003

  
RICHEMOND DORVIL  
SUPERVISORY PATENT EXAMINER